Remarks

Applicants submit herewith a marked up copy of the claims showing the amendments made hereunder. Claim 36 has been amended to add a period. Claim 37 has been amended to clarify the compound designations (7) and (7a), and to add a period at the end of the claim. The numbering in the claims has been put in proper order. In addition, claims 34, 35 and 37 have been amended to recite the amount of selected enantiomer which is present, and new claims 42-47 have been added which are directed to more rigorous levels of enrichment. The basis for these levels of enrichment is specification page 10, lines 27-28.

Claims 34-47 are pending.

Claim 36 was provisionally rejected on the grounds of double patenting over claim 23 of copending application 10/354207. This rejection is believed to be without merit because claim 36 recites that the subject diastereomer is enriched. Claim 23 of the '207 application (copy attached as exhibit 1) is silent on the question of purity and therefore is directed to the given enantiomer as well as the racemate of which it is a part. Therefore it is not directed to the same invention as claim 36.

Claims 36-41 were rejected under 35 USC 112(2) as being indefinite on various grounds. Claims 36 and 37 were missing terminal periods, and these have been added. Claim 37 was said to be indefinite for failing to clearly indicate the structures designated by (7) and (7a). These structures are salts, so the entire compound as the salt is indicated by (7) or (7a). However, the compound designations have been repositioned to clarify this point. Claims 38-40 (and claim 41 for that matter) were observed to be dependent upon cancelled claims 1-4. Claims 1-4 correspond to claims 34-37, so an appropriate amendment has been made in both claims 38 and 41. The rejections under 35 USC 112(2) are believed to be moot. Reconsideration and withdrawal of this rejection is respectfully solicited.

Claim 35 was provisionally rejected on the ground of obviousness-type double patenting over copending applications no. 11/031228, 11/031250, 11/031252 and 11/031252. Since these rejections are provisional, this application should now be in condition for allowance. For the examiner's information, it is applicants' present intent to abandon these 4 applications or file terminal disclaimer(s) in them in due course once the present case is passed to issue.

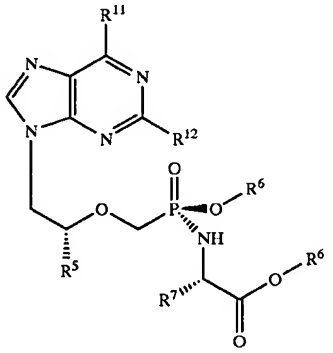
Respectfully submitted,

Max D. Hensley, Reg. 27,043
Date: 10/18/2005

Attach: Exhibit 1
New Power of Attorney

which is substantially free of diastereomer (5b)

(5b)



wherein

R^5 is methyl or hydrogen;

R^6 independently is H, alkyl, alkenyl, alkynyl, aryl or arylalkyl, or R^6 independently is alkyl, alkenyl, alkynyl, aryl or arylalkyl which is substituted with from 1 to 3 substituents selected from alkylamino, alkylaminoalkyl, dialkylaminoalkyl, dialkylamino, hydroxyl, oxo, halo, amino, alkylthio, alkoxy, alkoxyalkyl, aryloxy, aryloxyalkyl, arylalkoxy, arylalkoxyalkyl, haloalkyl, nitro, nitroalkyl, azido, azidoalkyl, alkylacyl, alkylacylalkyl, carboxyl, or alkylacylamino;

R^7 is the side chain of any naturally-occurring or pharmaceutically acceptable amino acid and which, if the side chain comprises carboxyl, the carboxyl group is optionally esterified with an alkyl or aryl group;

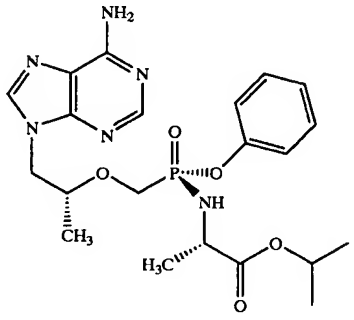
R^{11} is amino, alkylamino, oxo, or dialkylamino; and

R^{12} is amino or H;

and it salts, tautomers, free base and solvates.

23. A compound of structure (6)

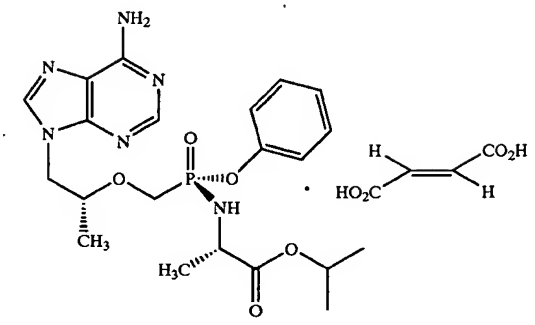
(6)



and its salts and solvates.

24. A compound of structure (7)

(7)



25. A composition comprising a compound of any of claims **19-24** and a pharmaceutically effective excipient.

26. The composition of claim 25 wherein the excipient is a gel.

27. The composition of claim 25 which is suitable for topical administration.

28. A method for antiviral therapy or prophylaxis comprising administering a compound of any of claims **19-24** in a therapeutically or prophylactically effective amount to a subject in need of such therapy or prophylaxis.

29. A method for use of magnesium alkoxide comprising reacting 9-(2-hydroxypropyl)adenine (HPA) or 9-(2-hydroxyethyl)adenine (HEA), magnesium alkoxide, and protected p-toluenesulfonyloxymethylphosphonate.

30. The method of claim 29 further comprising recovering PMPA or PMEA, respectively.

31. The method of claim 29 wherein the phosphonate of the p-toluenesulfonyloxymethylphosphonate is protected by ethyl ester.

32. The method of claim 29 wherein the alkoxide is a C_1-C_6 alkoxide.

33. The method of claim 32 wherein the alkoxide is t-butyl or isopropyl oxide.

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